

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KERVIN MORENO MUJICA, SR.,

Petitioner,
v.

Case No. 8:23-cv-2405-CEH-AEP

SECRETARY, DEPARTMENT
OF CORRECTIONS,

Respondent.
_____ /

ORDER

BEFORE THE COURT is Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) in which he challenges convictions in Pasco County, Florida, in Case No. 2017-cf-182. It is apparent from records from the state trial court that Petitioner's judgment of conviction, entered on October 18, 2023, has not become final.¹ Therefore, the petition is not ripe for review. *See Maharaj v. Sec'y Dep't of Corr.*, 304 F.3d 1345 (11th Cir. 2002) (federal habeas petition was not ripe for review when state judgment was not yet final); *Gust v. State*, 535 So.2d 642 (Fla. 1st DCA 1988) (holding that if a defendant does not appeal his conviction or sentence, his judgment of conviction becomes final when the 30-day period for filing a direct appeal expires).

Accordingly:

¹ *See*

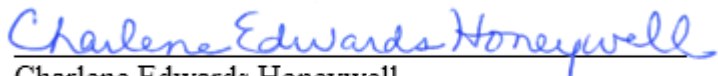
<https://www.civitekflorida.com/ocrs/app/caseinformation.xhtml?query=xhQITgKJB0qJBtN5eqclxDbclNL5FY-rMBs5MtdaS5w&from=partyCaseSummary>

1. The Petition for Writ of Habeas Corpus (Doc. 1) is **DISMISSED** without prejudice.

2. No certificate of appealability will issue. Petitioner is entitled to a certificate of appealability only if he shows that reasonable jurists would find debatable (1) whether the court was correct in its procedural ruling, and (2) whether the petition stated “a valid claim of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Petitioner cannot make the required showing. Specifically, he cannot show by citation of contrary authority or otherwise that reasonable jurists would debate the determination that the petition is not ripe for review and that he stated a substantial denial of a constitutional right. And, because he is not entitled to a certificate of appealability, he is denied leave to proceed on appeal *in forma pauperis*.

3. The **Clerk** is directed to close this case.

ORDERED in Tampa, Florida, on October 25, 2023.


Charlene Edwards Honeywell
United States District Judge

Copy to: Petitioner, *pro se*